

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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LEONID SHAPSIS, et al.,

Plaintiffs,
- against -

ORDER
CV 05-5555 (ARR) (JO)

LEONID SHEKHETS, et al.,

Defendants.

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JAMES ORENSTEIN, Magistrate Judge:

On January 9, 2007, I filed a Report and Recommendation recommending that the court dismiss this action without prejudice to reopening within 60 days if the settlement had not been achieved. Docket Entry ("DE") 34. In their objections to that recommendation, the plaintiffs state that the settlement has not been achieved. DE 36. Rather than put the court to the burden of ruling on the objections, I now *sua sponte* withdraw my report and recommendation. In the absence of a settlement to which all parties agree, the case will proceed on the merits.

Accordingly, I now direct all parties – including the *pro se* defendants – to meet and confer in advance of the next status conference and to submit no later than February 7, 2007, a joint status report on the progress of discovery, along with an expedited schedule for completing it. At the next conference, which was previously scheduled for February 9, 2007, at 11:30 a.m., I will expect the parties to be prepared to discuss the issue of awarding the costs associated opposing counsel's attendance at the conference of January 9, 2007, which the plaintiffs' counsel failed to attend. DE 34 at 4 n.1; *see also* Fed. R. Civ. P. 16(f). In addition, I remind counsel for the plaintiffs of my previous order, DE 33, directing him to order a transcript of the January 9 conference from the court reporter, to provide a copy to his clients, and to file proof of such

service no later than February 8, 2007. Finally, I direct the plaintiffs' counsel to serve a copy of this order on *pro se* defendants Alex Kogan and John Litman and to file proof of such service no later than February 5, 2007.

SO ORDERED.

Dated: Brooklyn, New York
January 31, 2007

/s/ James Orenstein
JAMES ORENSTEIN
U.S. Magistrate Judge